IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10159 of 2004

Between:

Nalam Venkata Srinivas Murthy, S/o. Late Ramachandra Rao
M.G. Road, Bapatla, Guntur District.

..... PETITIONER

AND

The Commissioner, Bapatla Munaicipality, Bapatla, Guntur Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the action of the Respondent in passing the proceedings therein ROC.No.1878/2003 G1, Dt. 04-06-2004 as arbitrary, illegal and violative of Article 21 of the Constitution of India.

For the Petitioner: MR.C.S.N.RAJU -Advocate

For the Respondent : MR.DANTU.SRINIVAS – S.C. FOR MUNICIPALITY

The Court at the stage made the Following :

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THE HONOURABLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO.10159 OF 2004

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ORDER:

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This writ petition is filed challenging the impugned order dated 4.6.2004 in ROC No.1878/2003/G1, of the respondent/Commissioner, wherein the Building Surveyor License of the petitioner is cancelled.

It is stated in the affidavit filed in support of the writ petition that for the past 26 years petitioner is holding license as a Building Surveyor, which is being renewed from time to time. While so, by an order dated 9.8.2003, the respondent herein cancelled his license alleging certain irregularities and questioning the same he filed a Writ Petition No.1775 of 2003 wherein this Court passed the following order:

> " A perusal of the impugned order reveals that it is not preceded by any show cause notice, which is in violation of Section 344(6) of the A.P. Municipalities Act. The impugned order is, therefore, set aside only on the that ground and the matter is remitted back to the respondent to take appropriate action in accordance with Section 344(6) of the A.P. Municipalities Act within a period of three weeks from the date of receipt of a copy of this order.
>
> The writ petition is allowed accordingly at the stage of admission.'

Pursuant to the said order, the Respondent/Commissioner has issued license to the petitioner for one year from 1.4.2004 to 31.3.2005. Thereafter, again the present impugned order is passed. Hence, the present writ petition is filed.

Learned counsel for the petitioner contended that the impugned order is passed without giving any notice to the petitioner herein, which is in contravention of the provisions of Section 344(6) of the A.P. Municipalities Act, 1965 and as such the same is liable to be set aside.

When the matter has come up, this Court directed the respondent/Commissioner to

appear before this Court in person and explain the reasons for passing such an order. In obedience thereto, the respondent/Commissioner appeared before this Court and he fairly conceded that he committed a mistake by passing such order without giving notice to the petitioner and also prayed that this impugned order can be treated as show-cause notice.

Learned Standing Counsel for respondent submitted that the impugned order may be treated as a show cause notice, and petitioner may be directed to submit his explanation for the same.

Both the counsel agreed for disposal of the writ petition with the following direction:

In the circumstances, treating the impugned order as
show-cause notice, the petitioner is directed to submit his explanation to the same, to the respondent/Commissioner, within a period of ten days from the date of receipt of copy of this order. On filing such explanation, the respondent /Commissioner is directed to consider and pass speaking order as expeditiously as possible in accordance with law.

With the above observation, the writ petition is disposed of. No costs.

02.7.2004.

/tvk.

TO:

1. The Commissioner,

Bapatla Munaicipality, Bapatla, Guntur Dist.

2. Two C.D.Copies.